IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-02-2008

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Contempt Petition No.981 of 2006

G.Muthu .. Petitioner.

Versus

Mr.Chandraboss .. Respondent.

Prayer: Petition under Section 10 and 12 of the Contempt of Courts Act, 70/71 to punish the respondents for having committed contempt of Court for disobeying the order, dated 25.02.2005, made in Crl.O.P.No.39365 of 2004.

For Petitioner : Mr.A.E.Kalaiselvan

For Respondent : Mr.P.Senthil Kumar

O R D E R

Heard A.E.Kalaiselvan, the learned counsel appearing on behalf of the petitioner and Mr.P.Senthil Kumar, the learned counsel appearing on behalf of the respondent.

2. This contempt petition has been filed praying that this Court may be pleased to punish the respondent for wilful disobedience of the order passed by this Court, on 25.02.2005, in Crl.O.P.No.39365 of 2004.

3. It is stated by the petitioner that his sister's husband G.Muthu had certain money transactions with Krishta, Wife of Balu, living in Thirupanthiyur Village, Thiruvallur Taluk and District. On 04.08.2004, Muthu, along with one Jayaram had accompanied Krishta and travelled to Kancheepuram, where they had stayed at Rajam Lodge in Kamarajar Salai. The relatives of Muthu had received a message from the concerned police saying that Muthu had died on 04.08.2004. A First Information Report was registered and on the complaint lodged a case was registered, under Section 174 of the Criminal Procedure Code. It was further submitted that the relatives of Muthu were not allowed to see the dead body, on 04.08.2004, when he is reported to have died. On 05.08.2004, it was noticed that there were serious injuries on Muthu's body. Suspecting foul play, the relatives of Muthu had filed a complaint before the respondent and a request was made to register a case and investigate the matter. Since the respondent and the others concerned were reluctant to initiate action based on the said complaint, the petitioner had filed a criminal original petition, in Crl.O.P.No.39365 of 2004, before this Court, under Section 482 of the Criminal Procedure Code. By an order, dated 25.02.2005, this Court had issued a direction for re-investigating the case, in Crime No.1173 of 2004, by the CBCID, Kancheepruam. Since the order passed by this Court had not been complied with, the petitioner has preferred the present contempt petition.

4. It was submitted by the learned counsel appearing on behalf of the respondent that pursuant to the directions issued by this Court, by its order, dated 25.02.2005, in Crl.O.P.No.39365 of 2004, the CBCID had taken over the case, on 25.03.2005, and a final report had also been filed, on 25.04.2005, before the Tahsildar cum Executive Magistrate, Kanchipuram. It has also been submitted on behalf of the respondent that with regard to the case which was originally registered, under Section 174 of the Criminal Procedure Code, a final report had been forwarded to the Tahsildar cum Executive Magistrate, on 29.11.2005, recording that further action has been dropped. Subsequently, the petitioner has filed an original petition before this court in Crl.O.P.No.35320 of 2007, praying as follows:
"Hence in the interest of justice it is therefore prayed that this Honourable Court may be pleased to issue the direction to transfer the case in Crime No.1179 of 2004 from the 2nd respondent CBCID Kancheepuram herein to the independent agency namely CBI and direct to reinvestigate the matter along with the petitioner's complaint, dated 05.08.2004, and file the final report within a stipulated period and initiate necessary action and pass such further order or other orders as this Honourable Court may be deem fit and proper in the circumstances of the case and thus render justice."
The respondent had also submitted his unconditional apology, if this Court finds that he has committed contempt of Court by his Act or omission.

5. Taking into consideration, the averments made by the learned counsels appearing for the petitioner as well as for the respondent and in view of the facts and circumstances of the case, it is clear that the respondent has not committed contempt of Court by wilfully disobeying the order passed by this Court, on 25.02.2005, in Crl.O.P.No.39365 of 2004. Hence, the contempt petition is closed.

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